

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF GARY, INDIANA,

Defendant.

Civil Action No. 2 09 CV 006

COMPLAINT

Plaintiff, the United States of America, alleges:

1. This action is brought on behalf of the United States to enforce the provisions of Title VII of the Civil Rights Act of 1964, *as amended*, 42 U.S.C. § 2000e, *et seq.* ("Title VII").
2. This Court has jurisdiction of the action under 42 U.S.C. § 2000e-5(f), 28 U.S.C. § 1331 and 28 U.S.C. § 1345.
3. Defendant, City of Gary ("City" or "Defendant"), is a political subdivision of the State of Indiana created pursuant to the laws of the State of Indiana.
4. The City is a "person" within the meaning of 42 U.S.C. § 2000e(a) and an "employer" within the meaning of 42 U.S.C. § 2000e(b).
5. In or around February 2006, the City created a hiring list of 25 applicants for Emergency Medical Technician ("EMT") positions. The hiring list stated that offers of employment would be made in rank order until its expiration on February 1, 2007. Included on

the hiring list were applicants James Meinart, Richard Hurst, Timothy Sierazy, Nathan Bogner, Christopher Ferrand and Tina Bruks (collectively the "Charging Parties").

6. On or around October 10, 2006, the City offered employment as EMTs to six of the applicants on the EMT hiring list, all of whom are black. These applicants were ranked 1st, 5th, 9th, 10th, 11th, and 12th on the hiring list. All six accepted employment with the City.

7. The City did not make offers of employment as EMTs to any of the Charging Parties, who ranked 2nd (James Meinart), 3rd (Richard Hurst), 4th (Timothy Sierazy), 6th (Nathan Bogner), 7th (Christopher Ferrand) and 8th (Tina Bruks) on the hiring list, all of whom are white. All of the Charging Parties ranked higher than the lowest-ranked applicant to receive an offer of employment as an EMT with the City.

8. In or around November 2006, the City offered employment as an EMT to a seventh individual (black) who was not on the hiring list. This person also accepted employment as an EMT with the City.

9. None of the Charging Parties received an offer of employment as an EMT from the City before the EMT hiring list created by the City in or around February 2006 expired on February 1, 2007; nor did any of the Charging Parties receive an offer of employment as an EMT from the City at any time thereafter.

10. The City has discriminated against the Charging Parties on the basis of their race (white), in violation of Section 703(a) of Title VII, 42 U.S.C. § 2000e-2(a), by failing or refusing to offer employment as an EMT to each of these individuals.

11. The Equal Employment Opportunity Commission ("EEOC") received timely charges (Charge Nos. 470-2007-00772 (James Meinart), 470-2007-01286 (Richard Hurst), 470-2007-01285 (Timothy Sierazy), 470-2007-01287 (Nathan Bogner), 470-2007-00616 (Christopher Ferrand) and 470-2007-00627 (Tina Bruks)) filed by the Charging Parties against the City Fire Department.

12. The Charging Parties alleged that they had been discriminated against on the basis of their race (white) when they were not offered employment as EMTs by the City.

13. Pursuant to Section 706 of Title VII, 42 U.S.C. § 2000e-5, the EEOC investigated the charges, found that the evidence supported the Charging Parties' allegations, and found reasonable cause to believe that the Charging Parties were discriminated against in violation of Title VII.

14. The EEOC attempted unsuccessfully to conciliate a voluntary resolution of the charges, and subsequently referred the matter to the Department of Justice.

15. All conditions precedent to the filing of suit have been performed or have occurred.

WHEREFORE, the United States prays that the Court grant the following relief:

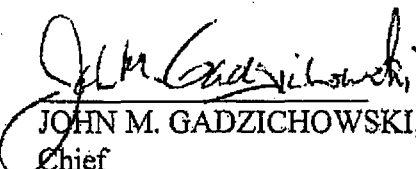
- (a) Enter an order enjoining the City of Gary, its officers, agents, employees, successors and all persons in active concert or participation with them, from engaging in discriminatory employment policies and practices against white EMTs and applicants for EMT positions based on their race;
- (b) Enter an order enjoining the City of Gary from failing or refusing to provide remedial relief sufficient to make whole the Charging Parties for the individual

losses they have suffered as a result of the discrimination against them as alleged in this Complaint;

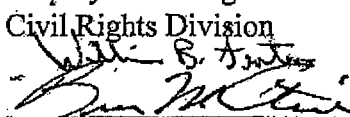
- (c) Take other appropriate nondiscriminatory measures to overcome the effects of the discrimination; and
- (d) Award such additional relief as justice may require, together with the United States' costs and disbursements in this action.

GRACE CHUNG BECKER
Acting Assistant Attorney General
Civil Rights Division

By:


JOHN M. GADZICHOWSKI, WI Bar 1014294
Chief

Employment Litigation Section
Civil Rights Division


WILLIAM B. FENTON, DC Bar 414990
Deputy Chief

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Senior Trial Attorney

U.S. Department of Justice
Civil Rights Division
Employment Litigation Section
Room 4908, PHB

950 Pennsylvania Ave., NW
Washington, DC 20530

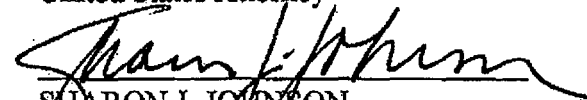
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DAVID CAPP
United States Attorney

By:



SHARON J. JOHNSON

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Hammond, IN 46320
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Attorneys for the United States of America

Moore, Lisa (CRT)

From: Moore, Lisa (CRT)
Sent: Monday, January 12, 2009 2:43 PM
To: Gardner, Leslie (CRT)
Cc: Ruiz, Hector (CRT)
Subject: RE: EEOC Charges City of Dallas

The system is finally up. I should have something for you tomorrow.

Lisa

From: Gardner, Leslie (CRT)
Sent: Monday, January 05, 2009 2:41 PM
To: Moore, Lisa (CRT)
Cc: Ruiz, Hector (CRT)
Subject: Re: EEOC Charges City of Dallas

Yes, thank you.

From: Moore, Lisa (CRT)
To: Gardner, Leslie (CRT)
Sent: Mon Jan 05 14:39:23 2009
Subject: EEOC Charges City of Dallas

Leslie,

I just learned that the system is down until further notice. I will check back tomorrow if I don't hear anything more by cob today. Just to confirm, you're interested in seeing eeoc charges on the basis of race for the City of Dallas, TX within the past five years.

Lisa

UNITED STATES DISTRICT COURT

Northern

District of

Indiana

United States of America

SUMMONS IN A CIVIL ACTION

V:

City of Gary, Indiana

CASE NUMBER:

2 09 CV 006

TO: (Name and address of Defendant)

Jerome M. Taylor
Deputy City Attorney
401 Broadway, Fourth Floor
Gary, Indiana 46402

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Sharon J. Johnson
Assistant United States Attorney
Northern District of Indiana
5400 Federal Plaza, Suite 1500
Hammond, Indiana 46320

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Stephen R. Ludwig, Clerk

CLERK

DATE

(By) DEPUTY CLERK

1/12/09

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (PRINT)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served:
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:
- ☐ Returned unexecuted:
- ☐ Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL \$0.00
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

CIVIL COVER SHEET

2 09 CV 006

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

DEFENDANTS

City of Gary, Indiana

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Lake
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Sharon Johnson, Brian G. McEntire, Department of Justice, United States Attorney's Office, 5400 Federal Plaza, Suite 1500,

Attorneys (If Known)

Hamilton Carmouche

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- (For Diversity Cases Only)
- | | | | |
|---|---|---|---|
| Citizen of This State | PTF <input type="checkbox"/> 1 DEF <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | PTF <input type="checkbox"/> 4 DEF <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY - Med. Malpractice <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Rasketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 2000e, et seq.

Brief description of cause:
Alleging discriminatory hiring practices

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

1-12-09

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____